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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO.      |
|--|-------------|-----------------------|---------------------|-----------------------|
| 10/752,928   | 01/07/2004  | Christopher G. Neiner | MCC 01061 C2US      | 5794                  |
| 32233  | 7590        | 02/23/2006            | EXAMINER            |                       |
| STORM L.L.P.<br>BANK OF AMERICA PLAZA<br>901 MAIN STREET, SUITE 7100<br>DALLAS, TX 75202 |             |                       |                     | CASTELLANO, STEPHEN J |
| ART UNIT   |             | PAPER NUMBER          |                     |                       |
|  |             | 3727                  |                     |                       |

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                        |                        |  |
|------------------------------|------------------------|------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>    |  |
|                              | 10/752,928             | NEINER, CHRISTOPHER G. |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>        |  |
|                              | Stephen J. Castellano  | 3727                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 03 October 2005.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-7 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 and 10-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/3/05, 10/31/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

Claims 8, 9 and 21-26 have been canceled. Claims 1-7 and 10-20 are pending.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13, 16, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13, 16, 18 and 20 fail to further limit the language of independent claim 1 from which these claims all depend.

Cancellation of claims 13, 16, 18 and 20 is appropriate.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson et al. (Wilkinson) in view of Brifcani et al. ('634)(Brifcani).

Wilkinson discloses a lid for a can body comprising a center panel, an annular countersink, a chuckwall and a peripheral curl portion. Wilkinson discloses the curl height of less than 0.091 inches in Table I where dimension C. is equal to 0.090 inches. Wilkinson discloses the radius of curvature of the chuckwall of from about 0.4 to about 1.0 inches as shown in Fig. 8 and at col. 5, lines 35-38 where the value of  $R_t$  is 0.39 inches which is about 0.4 inches. Generally, the assigned value of from about 0.4 to about 1.0 inches for the chuckwall radius of curvature is not given any criticality within applicant's disclosure.

Wilkinson discloses the invention except for the chuckwall angle of from about 20 to about 80 degrees.

Brifcani teaches a chuckwall angle of 43 degrees. It would have been obvious to modify the chuckwall angle to be 43 degrees has an optimum angle between shallow angles which allow less material to be used and steeper angles which have the advantage of providing a deeper recess with more protection for the center panel portion of the lid and less bending of the lid material in the double seaming operation where the lid is joined to a can body.

Re claim 5, the curl portion is the extreme outer portion of the lid located at approximately 20 and 34 and a transitional portion located approximately at 32 extends between the chuckwall and curl portion.

Re claim 6, Brifcani teaches a substantially flat center panel. It would have been obvious to modify the center panel to be flat to provide a section that is not deformed from the flat sheet material the lid is made from eliminating any steps need to deform the center panel with a curved cross section.

Re claim 7, Wilkinson appears to have an arcuate center panel in cross section, the outer peripheral edge is also arcuate.

Re claims 10-16 and 19, the step portion is not shown by Wilkinson. Official notice is taken that step portions are well known in the can lid art, the arcuate shape of such step portions are well known and the dimensions of a radius of curvature for said step portions of about 0.02 to about 0.06 inches are well known. It would have been obvious to provide a step portion to provide separation between the chuckwall and the peripheral curl of the lid.

Re claim 17, the countersink height of from about 0.030 to about 0.115 inches is not shown by Wilkinson. Official notice is taken that these countersink dimensions are well known. It would have been obvious to increase the countersink depth to provide greater reinforcement of the can lid and to allow greater flexibility for the chuckwall.

Claims 1-7 and 10-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkinson et al. (Wilkinson) in view of Brifcani et al. ('634)(Brifcani) and WIPO reference (WO 89/10216) to Kysh.

This rejection is being made should it be deemed that the value for  $R_t$  of 0.39 inches is not about 0.4 inches. It is noted that applicant's specification doesn't assign any particular criticality to the limitation of from about 0.4 to about 1 inch for the chuckwall radius of curvature.

Wilkinson and Brifcani are applied as previously stated in the above rejection.

Kysh teaches in Fig. 20 and at page 18, lines 6-8 a value of 75 mm for the chuckwall radius of curvature. The value of 75 mm is a little less than 3.0 inches. It would have been obvious to increase Wilkinson's chuckwall radius of curvature into the 0.4 to 1.0 inches range for the reasons taught in Kysh at lines 9-14 of page 18, i.e., to localize modification of the shape of the anti-peaking bead or countersink.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc